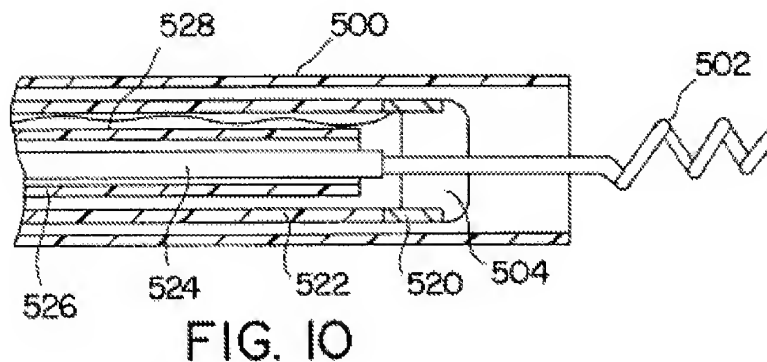


REMARKS

I. Rejections under 35 USC §102

Claims 1, 4, 7, 11-12, 15, 23-25 and 30 are rejected as being anticipated by Mulier et al. (US 5,906,613). In particular, Fig. 10 is relied upon.



The '613 Mulier discloses an ablation catheter for mapping and ablating tissue with RF energy. As Applicant pointed out previously, the '613 Mulier is not directed to stimulating electrode for myocardial tissue and thus does not have an electrode adapted for stimulating myocardial tissue. Claim 1, for example, is specific that the distal end electrode is adapted for stimulating myocardial tissue via intimate contact with a surface of the electrode. Nowhere does the '613 Mulier makes such a disclosure. More importantly, nowhere in the Examiner's response is this fundamental point addressed. This failure alone without more obviates the anticipation rejection.

The Examiner suggests that Applicant has misinterpreted the '613 Mulier and offers a characterization that is without basis. However, the Examiner is recasting the '613 Mulier. The characterization now offered by the Examiner is

not the same or consistent with the characterization given in the office action of July 14, 2006. On page 4 of that office action, the Examiner clearly stated that “[t]he plastic cap 504... creates a closed cavity within intermediate catheter tube 522.” Now, the Examiner offers a different characterization wherein the limitation of a conductive structure defining a closed cavity distal of the distal end wall of the elongated body is identified to be the helical electrode 502 (conductive structure). The plastic cap 504 is now identified to be an end wall. This characterization also fails to establish anticipation as well because the Examiner misinterprets that the claim specifies the conductive structure to be a separate element from the electrode. To reinforce this already present limitation, claim 1 has been amended to recite that the conductive structure is separate from the electrode. This distinction alone is sufficient to obviate the anticipation rejection.

Also, the helical electrode is characterized as being a closed cavity. However, the helical electrode dispenses fluid. A person of skill in the art would give the term “closed” its plain, ordinary meaning. The ordinary meaning of “closed” distinguishes the helical electrode because of the very fact that it is dispensing a flow of fluid. That is the very antithesis of being “closed.” The helical electrode by necessity is an “open” cavity. This distinction alone is sufficient to obviate the anticipation rejection.

Despite the “moving target” nature of the Examiner’s reasons in support of the anticipation rejection, Applicant has successfully disputed each contention put forth by the Examiner in both the final office action and the preceding office action.

The Examiner further makes a vague, unspecific reference to Applicant’s argument that certain limitations of the claims are not shown in the ‘613 Mulier and says that the features are not present in the claims. What Applicant believes the Examiner is making reference to is the fact that, whereas the office action identifies two electrodes (502 and 520), the claims specify a single conductive structure having first and second electrode surfaces. Contrary to the Examiner’s comments in response, the limitations are in fact recited in the claims.

Consequently, the Examiner has not rebutted Applicant's argument. This distinction alone is sufficient to obviate the anticipation rejection.

The Examiner next says that Applicant is incorrect about the insulation of the helical electrode in the '613 Mulier. However, the Examiner says exactly what Applicant pointed out: only the proximal portion of the helical electrode is covered by an insulating sheath. What Applicant further pointed out was that in the '613 Mulier disclosure, absent is an "insulated" helical fixation member. An electrode that has only a portion covered by insulation is not a "insulated" electrode. The Examiner is once again failing to properly construe and give effect to the claim language. This distinction alone is sufficient to obviate the anticipation rejection.

The final point of response is that Mulier does in fact disclose a first current density that is smaller than a second current density. The Examiner, however, merely restates the previous contention. As Applicant carefully pointed out previously, the fundamental flaw in the Examiner's analysis is a failure to properly construe the claim language to specify a structure as depicted, for example, in the drawings of Figs. 1A and 1B, wherein a conductive structure has a first electrode surface that is an inner surface and a second electrode surface that is an outer surface. The Examiner applies an approach that current density is current flow divided by area. The analysis then proceeds to find that the solution dispensed from the helix contributes to a larger conductive area around the helix. The Examiner's analysis, however, fails to recognize that the claim specifies a smaller current density "at the first electrode surface," and not within the surrounding tissue where the dispensed fluid would reside. As illustrated in Fig. 1A, and as described in paragraphs [0012] through [0014], the difference in current density accrues by reason of port 113 circumscribing a second electrode surface area sized to produce a relatively high current density.

Applicant submits that '613 Mulier fails to anticipate claims 1, 4, 7, 11-12, 15, 23-25 and 30. The rejection of those claims should be withdrawn.

II. Rejections under 35 USC §103

Claims 10, 14, 17-20, 22, 28-29 and 31-34 are rejected as being unpatentable for obviousness over '613 Mulier in view of Gates (US 5,408,744).

Claims 3, 8 and 16 are rejected as being unpatentable for obviousness over '613 Mulier in view of Peterfeso (US 6,298,272).

Claims 21 and 35 are rejected as being unpatentable for obviousness over '613 Mulier in view of Altman (US 6,086,582).

Each of these rejected claims is a dependent claim. Also, each of the rejections is predicated on a characterization of '613 Mulier and application of it against the independent claims as set forth in the anticipation rejection. As pointed out above, the anticipation rejection necessarily fails. As a consequence, the obviousness rejections predicated on '613 Mulier anticipating the independent claims also necessarily fails. Applicant submits that '613 Mulier in combination with one or more of Gates, Peterfeso and Altman fails to render obvious claims 10, 14, 17-20, 22, 28-29 and 31-34; claims 3, 8 and 16; and claims 21 and 35. The rejection of those claims should be withdrawn.

III. Conclusion

In view of the foregoing remarks, Applicant submits that all claims distinguish over the prior art and are non-obvious. Applicant respectfully requests that a notice of allowance be issued in due course.

Respectfully submitted,

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Date

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